



## **TOWN OF LINCOLN**

MASSACHUSETTS

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### **Zoning Board of Appeals**

#### **Minutes Thursday, October 20, 2016 Special Appeal Hearing**

**Members Present:** Joel Freedman, Co-Chair, David Henken, Co-Chair, David Summer, William Churchill, Eric Snyder, Vinit Patel, Kathleen Shepard.

**Continuances:**

**Appeal of Decision of Building Commissioner, 16 and 22 Bypass Road (McLean Hospital Corporation), M/P 109-15-0 and 109-16-0.**

Joel Freedman opened the hearing (continued from September 29, 2016), with the appellants speaking first, then McLean Hospital and then the public. David Henken reminded everyone that the board does not need to hear any repetition from the last hearing only new and different information. There was discussion of the timing of the hearings and voting, and the board described its plan as hear additional testimony at this hearing, and make a decision at their November 3<sup>rd</sup> hearing, and that the Appellants had agreed to an extension of the date the board has to make a decision to December 16, 2016 to accommodate this timeline.

Michael Fee, attorney for the appellants, spoke to answer questions from the previous hearing and respond to town council's July 2016 letter and to various cases cited. Prior to the hearing, Attorney Fee provided the board with copies of cases cited and copies of a letter from Steven Kanner, MD, affidavit from Lynn DeLisi, MD and Pace Law Review article on the balance between zoning regulations and religious and education uses.

David Henken asked about fair housing laws and if they are applicable as McLean says they are. Michael Fee feels they could be down the line but are not applicable now. He cited the state statute, MGL chapter 40A, Section 3, fourth paragraph. The town can't treat people living with disabilities differently than any other family (ie., in this case, a family having 10 children. The board reflected that if its decision on the appeal is limited to the Dover Amendment issue – as is called for – then this consideration wouldn't apply. Attorney Fee spoke on his position of residential vs nonresidential dimensional requirements. The board discussed the requirements, set back issues and that any exception would be granted by the planning board under the By-law. Attorney Fee finished speaking by saying zoning exception equals millions in dollars, huge financial benefits to McLean. Dan Peirce, 10 Smith Hill Rd. voiced his concern about Borderline Personality Disorder being treated at the site and McLean being described as a medical institute providing treatment for psychological diseases. Arthur Anthony, 35 Brooks Rd. spoke about McLean as a business and businesses are only for profit. Qi Zhu, 32 Bypass Rd. feels McLean is misleading the neighbors and is financially driven. Lisa and Doug Elder, 38 Brooks Rd. both spoke on the impact to the Town of allowing a medical facility to locate in a residential zoning. Jay Gregory, 46 Bypass Rd. stated McLean is recognized worldwide as providing treatment for mental illness and that this is a treatment facility.

Diane Tillitson and Dr. Levendusky appeared on behalf of McLean stating McLean is not licensed as a psychological facility but licensed by the Department of Early Childhood Education. The license highlights its educational nature. Portions of the program are therapeutic but not medical. McLean operates under tight regulatory restrictions. It will run the program as an educational program.

Lynn DeLisi, 125 South Great Rd. reiterated that she believes this feels this is medical use. Kathleen Zhu, 32 Bypass Rd. was confused about McLean's primary purpose. Bob Domnitz, 21 Mill St. felt it's a complicated issue for the board. He has no personal stake in the outcome but the board must follow the law, and precedence will be set by this. John Greco, 8 Smith Hill Rd., was concerned about the Town losing money by allowing a non-profit to operate at the property.

**Motion:** Motion to continue the hearing till November 3, 2016 was duly made and approved as follows: Joel Freedman – yea, David Henken – yea, Kathleen Shepard – yea, Vinit Patel – yea, David Summer – yea, William Churchill – yea, Eric Snyder yea.

